

Serial No.: 10/699,464

### **REMARKS/ARGUMENTS**

Applicants respectfully request reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks.

There is no additional fee for this Amendment because the total number of claims does not exceed twenty and the total number of independent claims does not exceed three.

#### **Request for Telephone Interview**

Applicants kindly request the Examiner to contact the undersigned, to schedule a telephone interview to discuss the merits of this Patent Application.

#### **Amendment to Claims**

Applicants have amended Claim 23 so that when a first portion of a flange is engaged within a receiver a removable fastener fastens a second portion of the flange against a bottom wall. This Amendment is fully supported in the Specification at Page 16, line 3 through Page 17, line 14. This Amendment is further supported by the drawings, as shown in Figs. 3-5.

Applicants have amended Claim 27 by adding limitations of original Claim 23. Claim 27 is now in independent form.

The above Amendment adds no new matter to this Patent Application.

**Claim Rejections - 35 U.S.C. §103**

Claims 23-26, 28 and 30 have been rejected under 35 U.S.C. §103(a), as being unpatentable over Boros et al., U.S. Patent 5,941,200, in view of Taylor et al., U.S. Patent 4,397,299. Claim 29 has been rejected under 35 U.S.C. §103(a), as being unpatentable over the Boros et al. Patent, in view of the Taylor et al. Patent, and further in view of Brandt et al., U.S. Patent RE 37,745. These rejections are respectfully traversed, particularly in view of the above Amendment and the following remarks.

The Boros et al. Patent teaches flange 52 attached to bottom wall 48 with only a plurality of screws 64. The Boros et al. Patent neither teaches nor even suggests positioning an edge portion of flange 52 engaged within a receiver formed by a bracket attached to bottom wall 48. The Taylor et al. Patent teaches clamp members 72 and 78 that receive ribs 120 to maintain the position of burner 70 with respect to wall 26. The Taylor et al. Patent neither teaches nor even suggests using a fastener on one portion of burner 70 in order to achieve a secured mounting.

At Column 5, lines 5-12, the Boros et al. Patent teaches *circular* mounting plate structure 52. It would not be obvious to one having ordinary skill in the art to use the straight clamp members 72, 80 of the Taylor et al. Patent, in combination with a curved edge portion of circular mounting plate structure 52 of the

Serial No.: 10/699,464

Boros et al. Patent because it would not engage with or be held by clamp members 72, 80 of the Taylor et al. Patent.

Applicants claimed invention, particularly as set forth in Claim 23, now specifically requires the combination of a first portion of the flange engaged within a receiver and a second portion of the flange fastened to the bottom wall with a removable fastener. The teachings of the Boros et al. Patent either alone or in combination with the teachings of the Taylor et al. Patent do not render Applicants' claimed invention obvious in the manner required under 35 U.S.C. §103.

#### **Double Patenting**

Claim 23 has been provisionally rejected under the juridically created doctrine of obviousness-type double patenting, as being unpatentable over Claim 34 of co-pending U.S. Patent Application having Serial No. 10/698,836. Applicants elect to respond to this obviousness-type double patenting after the scope of Claim 23 has been finally determined. Also, the conflicting claims have not yet been patented.

#### **Allowable Subject Matter**

The Examiner indicated that Claim 27 contains allowable subject matter. Applicants have amended Claim 27 to include all limitations of the base claim and any intervening claim. Thus, Applicants believe that Claim 27, in its independent form, is now allowable.

Serial No.: 10/699,464

### Conclusion

Applicants believe that the above Amendment and remarks address each and every issue raised by the Examiner and overcome each and every rejection. However, should the Examiner detect any remaining issue, Applicants kindly request the Examiner to contact the undersigned, preferably by telephone, in an effort to expedite examination of this U.S. Patent Application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Douglas H. Pauley", written in a cursive style.

Douglas H. Pauley  
Registration No. 33,295

Pauley Petersen & Erickson  
2800 West Higgins Road; Suite 365  
Hoffman Estates, Illinois 60195  
TEL (847) 490-1400  
FAX (847) 490-1403